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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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| AUDREY, B | |
| ART UNIT | PAPER NUMBER |

3635

DATE MAILED:

02/25/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/239,878

Applicant(s)

Boyer et al

Examiner
Beth Aubrey Stephan

Group Art Unit
3635



☒ Responsive to communication(s) filed on Dec 10, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 23-26 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 23-26 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Receipt is acknowledged of the amendment filed 11/8/99. Claims 17- 22 have been canceled and claims 23-26 have been added.

Specification

The amendment filed 11/8/99 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "a unitary housing body of monolithically poured concrete".

Applicant is required to cancel the new matter in the reply to this Office action.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "a unitary housing body of monolithically poured concrete".

Claim Rejections - 35 USC § 112

Claims 23-26 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is unclear how the vault is "a unitary housing body of monolithically poured concrete" while in the specification the floor may be omitted making body not monolithically poured.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guardiani'598 in view of applicant's disclosure. Guardiani teaches a modular vault comprising a unitary housing body(A-H) of monolithically poured concrete, see Figure 6 and column 6, lines 19-22, a pre-cast roof slab, see Figure 4, pre-cast side and end walls(12a), and a pre-cast floor slab, see Figure 6, and a door opening, see Figure 4. Guardiani lacks the vault having a door frame, and the reinforcement being metal, and the means for hoisting being the flat bottom of the vault.

The use of a frame with a door, and a frame with a window is well known in the construction of a unit to be used for storage/living within. Therefore, to have provided the vault of Guardiani with door/window frames making the vault vapor-tight is deemed obvious for a skilled artisan to seal the vault against burglars, and to make it fire-resistant.

The specific material used for the reinforcement is considered a matter of obvious design choice for a skilled artisan given the intended use of the reinforcement and the environment within which it will be used.

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Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guardiani'598 as applied to claims 23-25 above, and further in view of Speer'817. Guardiani teaches the vault discussed previously but lacks the use of hooks for hoisting the vault.

Speer teaches a unitary vault(10) having integral hooks(27) on the roof(16) of the vault.

It would have been obvious for one having ordinary skill in the art at the time of the invention to have provided the vault of Guardiani with hooks, as taught by Speer, in order to provided the vault with transporting capabilities.

Response to Arguments


Applicant's arguments filed 7/15/99 have been fully considered but they are not persuasive.

Applicant's argument regarding the monolithic features of the claimed invention are disagreed with by the examiner. Applicant states on page 8 of the specification that the floor may be added at the construction site. Therefore, the body is not monolithic. Figure 6 of the reference shows no seams and is therefore considered to be monolithic to the extent that applicants claimed invention is monolithic.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Stephan whose telephone number is (703) 308-2485. The examiner can normally be reached from 7:30 am to 6:00 pm. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1268.


BETH A. STEPHAN
PRIMARY EXAMINER

Beth A. Stephan

February 23, 2000